IN THE HIGH COURT OF JUDICATURE
FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.6926/2006.

Subhash Sharma & Ors.
Vs.
State of Rajasthan & Ors.

Date of order : 13/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Vijay Choudhary for the petitioners.
Shri Anil Bhardwaj for the respondents.

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BY THE COURT:-

Heard learned counsel for the parties.

2) A dispute has been raised in this petition for distribution of Canal Water among villages of Gram Panchayat Ratakot and Gram Panchayat Padanga. Originally, the civil suit was filed by Gram Panchayat Padanga for declaration and permanent injunction. Gram Panchayat Ratakot on whose behalf the present writ petition has been filed by petitioner Subhash Sharma who is Sarpanch and was himself impleaded as defendant-respondent in the civil suit vide order dated 25/5/2006 of the civil court and has also filed written-statement. The

plaintiff also filed an application under Order 39 Rules 1 and 2 CPC for temporary injunction in that suit. In the meantime, a writ petition being SBCWP No.9483/2005 was filed by Gram Panchayat Padanga in which status-quo order was passed and thereafter Gram Panchayat Padanga filed SB Civil Contempt Petition No.386/2006 alleging disobedience of that order. Faced with such situation, Gram Panchayat Ratakot withdrew the civil suit referred to above. The learned Single Bench of this Court in the aforementioned writ petition, vide order dated 4/1/2006 directed the Gram Panchayat Padanga to file an application for revival of the said civil suit and trial court was directed to revive the aforesaid suit and decide the controversy expeditiously. While directing so, this Court disposed of the writ petition with a further direction that status-quo as was existing on the date of passing of the said order shall be maintained by the parties. It is informed that contempt petition filed subsequently alleging disobedience of the status-quo order has also been dismissed.

3) Learned counsel for the respondents however, submits that the civil suit filed by Gram Panchayat Padanga has been allowed and the appeal there against filed by Gram Panchayat Ratakot has also been rejected hence, this writ petition at the instance of Gram Panchayat Ratakot which raised substantially the same issue is not maintainable.

4) Learned counsel for the petitioners at this stage submits that the order passed by this Court directing the parties to maintain status-quo would be impediment even for the appellate court to take an independent view of the matter. In the ordinary course, directions of the court to maintain status-quo existing on the date of the order passed in writ petition should be understood in the manner expressed and that order came to an end with the decision of th suit. Merely because this court has directed to maintain status-quo does not mean that the civil court, or for that matter, the appellate court, if pursuaded on evidence and the law to take a different view was precluded from directing otherwise. Nevertheless, it is clarified that the appellate court would be at liberty to take an

independent view of the matter on the basis of the facts and the law.

With these observations, the petition is dismissed being not maintainable.

(MOHAMMAD RAFIQ), J.

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